

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CLINTON WILSON,

Defendant-Appellant.

UNPUBLISHED
November 6, 2001

No. 228237
Wayne Circuit Court
LC No. 99-010475

Before: Doctoroff, P.J., and Wilder and Chad C. Schmucker*, JJ.

MEMORANDUM.

Defendant appeals as of right his jury conviction for felony-firearm, MCL 750.227b. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with first-degree murder and felony-firearm in connection with the death of Albert Perry. Defendant was acquitted of the murder charge, but found guilty of felony-firearm. On appeal, he argues that his conviction denied him equal protection of law where he could not have had the same result if he had taken a bench trial.

A defendant may be properly convicted by jury of felony-firearm at the same time that he is found not guilty of the underlying felony. *People v Lewis*, 415 Mich 443; 330 NW2d 16 (1982). In such circumstances, the jury either was lenient to defendant or it reached a compromised verdict. If the jury was lenient, the defendant has no cause for complaint. *Id.*, 453. If a compromise was reached, it was indivisible, and the Court could not properly enforce only part of the compromise. *Id.*

Defendant argues that he was denied equal protection of the law where a compromise verdict is available in a jury trial, but not in a bench trial. Equal protection clauses of the state and federal constitution do not require uniformity of procedure. *Moore v Spangler*, 401 Mich 360, 370; 258 NW2d 34 (1977). The right to equal protection of the law is not denied by a state law or course of procedure where the same law or course of procedure would have been applied to any other person in the state under similar circumstances. *Id.*

Defendant has failed to show that invidious discrimination results from the differences between bench and jury trials. The possibility of leniency and compromise is one of the factors to be considered in making the choice between a bench and jury trial. There is no showing that

defendant was treated any differently than any other person in his situation. Inherent differences between bench and jury trials do not deny equal protection of law.

Affirmed.

/s/ Martin M. Doctoroff

/s/ Kurtis T. Wilder

/s/ Chad C. Schmucker